UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

In re:

Robert D. Passaretta

Debtor

Chapter 7
Case No. 13-11201
Honorable Diane Finkle

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MOTION OF 21ST MORTGAGE CORPORATION FOR RELIEF FROM THE AUTOMATIC STAY PURSUANT TO 11 U.S.C. § 362

21st Mortgage Corporation, a secured lien holder in the above captioned Chapter 7 proceeding, moves this court for an order, pursuant to 11 U.S.C. §362(d) and Rule 4001 of the Rules of Bankruptcy Procedure, for relief from the automatic stay of 11 U.S.C. §362(a) so that it may foreclose a mortgage which it holds on real property known and numbered as 35 Anne Ln, Burrillville, Rhode Island.

In support of its motion, 21st Mortgage Corporation states the following:

1. On September 7, 2005, Robert Passaretta, executed a note to Option One Mortgage Corporation in the original principal amount of $496,000.00 (the “Note”) (Exhibit A). The Note was subsequently endorsed in blank and transferred over to Movant. (assignee)

2. The Note is secured by a mortgage to Option One Mortgage Corporation, dated September 7, 2005 and recorded with the Burrillville Town Hall records of Land Evidence at Book 449, on Page 170 (the “Mortgage”) (Exhibit B). The Mortgage was subsequently assigned to Residential Funding Company, LLC by assignment of Mortgage dated September 19, 2005 and recorded with Burrillville Town Hall records of Land Evidence at Book 00586, Page 75 (Exhibit C) and subsequently assigned to 21st Mortgage Corporation by assignment of Mortgage dated September

26, 2013 (Exhibit D). The Mortgage is a first mortgage on real property owned by the Debtor known and numbered as 35 Anne Ln, Burrillville, Rhode Island (the “Property”).

3. 21st Mortgage Corporation is the current holder of the Mortgage.

4. 21st Mortgage Corporation is the current holder of the Note.

5. Ocwen Loan Servicing, LLC is the servicing agent for 21st Mortgage Corporation.

6. On May 6, 2013, the Debtor filed a petition for relief under Chapter 7 of the United States Bankruptcy Code.

7. The Note and the Mortgage are in default for the December 1, 2008 payment and all subsequent payments, plus reasonable attorney’s fees and costs and other charges incurred.

8. There is no other collateral securing the obligation.

9. According to Schedule C, the Debtor is not claiming an exemption in the Property.

10. According to Schedule D, the fair market value of the Property is $418,700.00. 21st Mortgage Corporation estimates that the liquidation value of the Property is no greater than $393,578.00, which is the market value minus 6% for the cost of sale.

11. According to Schedule D, Rhode Island Housing holds an additional lien on the Property in the amount of $5,463.06.

12. According to Schedule F, Diversified Consultants holds an additional lien on the Property in the amount of $271.00.

13. To the knowledge and belief of 21st Mortgage Corporation, there is no declaration of homestead recorded against the Property.

14. As of November 19, 2013, the total outstanding balance owed on the Note is $480,678.55.

15. The estimated amount of encumbrances on the Property is $486,412.58.

16. 21st Mortgage Corporation is entitled to relief from the automatic stay for cause pursuant to 11 U.S.C. §362(d)(1) because the Debtor has not made payments pursuant to the Note and Mortgage.

17. 21st Mortgage Corporation is entitled to relief from the automatic stay for cause pursuant to 11 U.S.C. §362(d)(2) because the Debtor has no equity in the Property and the Property is not necessary for an effective reorganization.

WHEREFORE, 21st Mortgage Corporation moves that the court enter an order granting 21st Mortgage Corporation relief from the automatic stay pursuant to 11 U.S.C. §362(d) so that it, and its successors and assigns, may exercise its rights pursuant to the Note and Mortgage in accordance with applicable state and federal law, and may commence a summary process action against occupants of the Property. 21st Mortgage Corporation moves that entry of the Order shall be effective immediately upon entry, notwithstanding the provisions of FRBP 4001(a)(3).

21st Mortgage Corporation
By its attorneys,

Date: November 26, 2013

/s/ Timothy Larson

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Within fourteen (14) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.